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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,444	01/23/2001	Hans-Ueli Roeck	33270	2422

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PEARNE & GORDON LLP  
526 SUPERIOR AVENUE EAST  
SUITE 1200  
CLEVELAND, OH 44114-1484

EXAMINER

BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643

12

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/767,444**

Applicant(s)  
**HANS-UELI ROACK**

Examiner  
**REXFORD BARNIE**

Art Unit  
**2643**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 14, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-35 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or

*R. P. Barrie*  
**REXFORD BARNIE**  
**PRIMARY EXAMINER**

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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### DETAILED ACTION

#### *Claim Rejections - 35 U.S.C. § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6, 14-19, and 21-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Pat# 5,721,783, cited by applicant) in view of Moser et al. (US Pat# 4,847,763) or Leyendecker et al. (US Pat# 6,466,801) or Akahane (US Pat# 6,226,533).

Regarding claim 1, Anderson teaches a hearing aid device which can receive audio signals to be fed to an electro-acoustic output transducer in addition to other signals received at the microphone wherein the audio signals could include recording, music, voice messages and so forth via a remote link (see cols. 25-26, figs and so forth) but fails to teach that the music source or recording or message can be given a time limit or limited to a time duration. Arguably, it can said, all storage mediums such as tapes, disc and so on would have a limit as far as how much information can be received and stored by a user.

It's notoriously well that messages, recording, music and so forth can be limited in time based in part on the size of the medium in which the audio signal is to be stored.

Moser et al. teaches a audiometer system wherein a message can be limited in <sup>time on a</sup> time on a storage medium in (see col. 4 line 66-col. 5 line 10).

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Leyendecker teaches a communication device wherein a user can record an audio signals limited in time in (see col. 6 lines 15-34).

Akahane teaches a voice messaging transceiver message duration indicator wherein a message can have a time duration in (see col. 3 lines 33-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include either one of the secondary references into that of the primary reference thus making it possible to receive an audio signal for storage limited in time based on the size of the storage as known in the recording art thus reducing the need of having a large power supply such as in a hearing aid or small communication devices

Regarding claim 2, the combination including Anderson teaches interaction between a user and a hearing aid device by voice recognition or manual input for activating for instance speed dialing in (see col. 24 line 45-col. 26 of Anderson).

Regarding claims 4 and 21, the combination teaches being to use a speaker phone or auxiliary speaker such that sounds can be heard at a distance for any produced audio signal in (see col. 23 lines 14-20, col. 26). Furthermore, it's notoriously well known to have a hearing aid with speaker systems which can be heard at a distance by turning the volume at a high level.

Regarding claim 6, The combination including Anderson teaches being able to control a hearing aid device by a display interface or by voice recognition

Regarding claim 14, see the explanation as set forth regarding claim 1 in addition to the fact that a user can program the hearing aid device to store audio signals desired by the user and

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thus, the audio signals can be limited to the storage capabilities of the memory which can be said will be able to store message up to a certain time limit. Furthermore, under the section comprising of sensors and peripheral devices of Anderson, a device including a sound storage device can be attached either by wired or wireless means as part of a hearing aid device to output stored information (see col. 25 lines 51-col. 26 line 5).

Regarding claims 15-19, The combination makes it possible for a user to store any desired audio signal for subsequent playback.

Regarding claim 22-25, the combination including Anderson renders the claimed subject matter obvious by teach a remote communication device which can communicate with a hearing aid to activate a sounds based in part on control signals from a user in (see col. 25 lines 51-67 of Anderson).

Regarding claim 26, Anderson teaches a hearing aid device with a speaker, signal processing and a generator unit (sound source) which can be connected to the loudspeaker in order to be heard. Furthermore, note the sound generator unit could include a desired disc, tape and so forth as desired by a user. See the explanation as set forth regarding claim 12 in regard to sounds or messages have a time limit or duration.

Regarding claim 27, see the explanation as set forth in the rejection of claim 26. Furthermore, the combination including Anderson gives the user the option to listen or record any desired message or song which can be stored on a recording medium with a selection of

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audio signals. Furthermore, see the explanation as set forth regarding claim 1 in regard to time duration of songs and so forth.

Regarding claims 28-29, The examiner takes official notice that it's well known to have portable sound devices wherein a user can select a desired song number based on a control input for instance such as in a CD player wherein the music or song is stored on a storage medium such as a disc.

Regarding claims 30-31, The ability to control a hearing aid device via wired link or remote link by using a control device is notoriously well known.

Regarding claim 32-33, The combination including Anderson does not put a restriction on a memory type so therefore, any commercially and known memory medium can be used for storage of music or audio signals.

Regarding claims 34-35, The combination teaches being able to use a display interface or voice recognition for controlling a hearing aid system. Also, notoriously well known is the ability to use a display interface to control a sound source such as a CD player or tape recorder and so forth.

3. Claims 3 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Pat# 5,721,783) in view of Moser et al. or Leyendecker et al. or Akahane and further in view of Schneider et al. (US Pat# 6,115,478).

Regarding claims 3, 17-19, the combination including Anderson teaches being able to store information including synthesized information, voice messages and so forth but fails to

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teach in detail the claimed subject matter but Schneider teaches a hearing aid wherein digitized information received from a remote source can be stored in a non-volatile memory and a volatile memory in (see col. 6- col. 7 lines 44-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Schneider eider thus making it possible to stored information for a hearing aid which can be used by the hearing aid user in the future.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Pat# 5,721,783) in view of Moser et al. or Leyendecker et al. or Akahane and further in view of Gehrig (US Pat# 4,774,515).

Regarding claim 3, the combination including Anderson teaches being able to store information including synthesized information, voice messages and so forth but fails to teach in detail the claimed subject matter but Gehrig teaches a hearing aid device with a sound source including an audio disc, random memory and so forth in (see col. 5 lines 54-65) through which an audio source can be connected to a loudspeaker.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gehrig into that of the combination thus making it possible to utilize the stored information in the future or to playback the stored audio message at a later time.

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5. Claims 5, 20, 22-24 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Pat# 5,721,783) in view of (Moser et al. or Leyendecker et al. or Akahane) and further in view of Ramaswamy (US Pat# 6,423,892).

Regarding claims 5, 20, 22-24 and 34-35, the combination teaches being able to receive recorded sounds and so forth by fails to teach the claimed subject in detail as taught by Ramaswamy in (see figs. 1-2 and disclosure) for a communication device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Ramaswamy into that of the combination thus making it possible to store any desired music or sound for future playback.

Regarding claim 22, The combination teaches the possibility of being able to choice among a plurality of sounds.

6. Claims 5, 20, 22 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Pat# 5,721,783) in view of (Moser et al. or Leyendecker et al. or Akahane) and further in view of Lin et al. (US Pat# 6,366,791).

Regarding claims 5 and 20, The combination fails to teach the claimed subject matter in detail but it's notoriously well known to be able to download music from a server to a communication device as taught by Lin et al. (See entire disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Ramaswamy into that of the combination thus making it possible to store any desired music or sound for future playback.



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Regarding claims 22 and 34-35, The combination teaches the possibility of being able to choice among a plurality of sounds.

***Conclusion***

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to REXFORD BARNIE whose telephone number is (703) 306-2744. The examiner can normally be reached on Monday through Friday from 8:30 to 6:00p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to (703) 872-9314 and labeled accordingly (Please label

**"PROPOSED/INFORMAL" or "FORMAL"**).

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 306-0377.

Rexford Barnie  
Patent Examiner  
03/18/03

  
**REXFORD BARNIE**  
**PRIMARY EXAMINER**